

Senate Engrossed House Bill

FILED

KEN BENNETT

SECRETARY OF STATE

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

CHAPTER 128

HOUSE BILL 2332

AN ACT

AMENDING SECTION 42-5162, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5169; AMENDING TITLE 43, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-107; AMENDING SECTION 43-321, ARIZONA REVISED STATUTES; RELATING TO INCOME TAX PENALTIES AND INTEREST.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 42-5162, Arizona Revised Statutes, is amended to
3 read:

4 42-5162. Monthly return; time for payment; extension of time;
5 quarterly payment

6 A. ~~From and after April 30, 1985~~ EXCEPT AS PROVIDED IN SECTION
7 42-5169, every retailer engaged in the business of making sales of tangible
8 personal property the use, storage or consumption of which is subject to the
9 tax imposed by this article, and every person who purchases for use, storage
10 or consumption any such property for which the tax is not paid to the
11 retailer, shall file a return with the department on or before the twentieth
12 day of the month next succeeding the month in which the tax accrues. The
13 return shall be on a form prescribed by the department and shall show the
14 tangible personal property sold for use, storage or consumption or purchased
15 for use, storage or consumption within the state during the preceding
16 calendar month. Such return shall be verified by oath or affirmation of the
17 retailer or person making the report, or his agent, and shall be accompanied
18 by payment of the tax shown to be due. The return and tax are delinquent if
19 not postmarked on or before the twenty-fifth day of the month when due or if
20 not received by the department on or before the business day preceding the
21 last business day of that month for those taxpayers electing to file by mail,
22 or are delinquent if not received by the department on the business day
23 preceding the last business day of the month when due for those taxpayers
24 electing to file in person.

25 B. The department may, for any taxpayer whose estimated annual
26 liability for taxes imposed by this article is between five hundred and one
27 thousand two hundred fifty dollars, authorize such taxpayer to pay such taxes
28 on a quarterly basis. The department may, for any taxpayer whose estimated
29 annual liability for taxes imposed by this article is five hundred dollars or
30 less, authorize such taxpayer to pay such taxes on an annual basis.

31 C. For good cause shown the department may extend the time for making
32 a return and paying the tax, but the time for filing the return shall not be
33 extended beyond the first day of the third month next succeeding the regular
34 due date of the return.

35 Sec. 2. Title 42, chapter 5, article 4, Arizona Revised Statutes, is
36 amended by adding section 42-5169, to read:

37 42-5169. Use tax declaration

38 IF A PERSON STORES, USES OR CONSUMES TANGIBLE PERSONAL PROPERTY SUBJECT
39 TO TAX UNDER THIS ARTICLE FOR A NONBUSINESS PURPOSE AND THE TAX WAS NOT
40 COLLECTED BY A REGISTERED RETAILER, THE INDIVIDUAL SHALL DECLARE THE ANNUAL
41 AMOUNT OF TAX DUE UNDER THIS ARTICLE ON THE INDIVIDUAL'S INCOME TAX FORM
42 PURSUANT TO SECTION 43-321.

1 Sec. 3. Title 43, chapter 1, article 1, Arizona Revised Statutes, is
2 amended by adding section 43-107, to read:

3 43-107. Nonconformity in application of internal revenue code;
4 abatement of penalties and interest; definitions

5 A. NOTWITHSTANDING SECTIONS 42-1123 AND 42-1125, NO INTEREST OR
6 PENALTY MAY BE ASSESSED ON A NONCONFORMITY DEFICIENCY IF ALL OF THE FOLLOWING
7 ARE TRUE FOR A TAXABLE YEAR:

8 1. THE TAXPAYER FILED A RETURN AND PAID THE TAXES DUE, RELYING ON THE
9 DEPARTMENT'S PUBLISHED FORMS AND INSTRUCTIONS.

10 2. CONFORMITY DOES NOT OCCUR.

11 3. THE DEPARTMENT SUPPLEMENTS ITS PUBLISHED FORMS AND INSTRUCTIONS
12 RELATED TO NONCONFORMITY AND REQUIRES THE TAXPAYER TO FILE AN AMENDED RETURN.

13 4. BY THE EXTENDED DUE DATE OF THE NEXT TAXABLE YEAR'S RETURN, THE
14 TAXPAYER AMENDS ITS RETURN TO REPORT THE NONCONFORMITY DEFICIENCY AND PAYS
15 THE ADDITIONAL TAX IN THE MANNER PRESCRIBED BY THE DEPARTMENT.

16 B. NOTWITHSTANDING SECTION 42-1123, THE DEPARTMENT SHALL NOT PAY
17 INTEREST ON REFUNDS RESULTING FROM AN AMENDED RETURN RELATED TO NONCONFORMITY
18 UNLESS THE REFUND IS PAID MORE THAN SIXTY DAYS AFTER THE DUE DATE SET FORTH
19 IN SUBSECTION A, PARAGRAPH 4 OF THIS SECTION OR FILING DATE, WHICHEVER IS
20 LATER.

21 C. FOR THE PURPOSES OF THIS SECTION:

22 1. "CONFORMITY" MEANS AN AMENDMENT TO SECTION 43-105 THAT RESULTS IN
23 ADOPTION OF THE DEFINITION OF THE INTERNAL REVENUE CODE FOR THE TAXABLE YEAR.

24 2. "NONCONFORMITY" MEANS EITHER:

25 (a) CONFORMITY PLUS ANOTHER AMENDMENT TO THIS TITLE THAT DOES NOT
26 CONFORM TO SPECIFIC PROVISIONS OF THE INTERNAL REVENUE CODE AS DEFINED IN
27 SECTION 43-105 FOR THE TAXABLE YEAR.

28 (b) NO AMENDMENT TO SECTION 43-105 FOR THE TAXABLE YEAR.

29 Sec. 4. Section 43-321, Arizona Revised Statutes, is amended to read:

30 43-321. Information required in returns

31 Each return required to be filed under this title shall contain the
32 following:

33 1. It shall contain or be verified by a declaration that it is made
34 under penalties of perjury. The declaration shall be written or in a form
35 prescribed by the department pursuant to section 42-1105, subsection B.

36 2. A specific statement of the items of the taxpayer's gross income
37 and the adjustments, deductions and credits allowed by this title.

38 3. A SPECIFIC STATEMENT OF THE TAXPAYER'S USE TAX LIABILITY PURSUANT
39 TO SECTION 42-5169.

40 ~~3.~~ 4. Such other information as the department may by rule prescribe
41 for the purpose of carrying out the provisions of this title.

~~APPROVED BY THE GOVERNOR APRIL 15, 2011.~~

~~FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 15, 2011.~~

Passed the House February 28, 20 11

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

[Signature]
Speaker of the House
Pro Tempore

Cheryl Laube
Chief Clerk of the House

Passed the Senate April 6, 20 11

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

[Signature]
President of the Senate

Charmian B. Bledsoe
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

 day of , 20

at o'clock M.

Secretary to the Governor

Approved this day of

at o'clock M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this day of , 20

at o'clock M.

Secretary of State

H.B. 2332

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 11, 2011,
by the following vote: 54 Ayes,

4 Nays, 2 Not Voting

[Signature]
Speaker of the House
Cheryl Laube Pro Tempore
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

12 day of April, 2011,

at 8:21 o'clock A.M.

[Signature]
Secretary to the Governor

Approved this 15th day of

April, 2011,

at 12:18 o'clock P.M.

[Signature]
Governor of Arizona

H.B. 2332

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 15th day of April, 2011,

at 3:31 o'clock P.M.

[Signature]
Secretary of State